

On November 30, 1941, the defendants were arraigned and entered pleas of not guilty. On April 21, 1942, the defendants moved for an order requiring greater particularity in certain respects, particularly whether the Government intended to introduce evidence that the word "Bronchi-Lyptus" constituted misbranding, in what respect this word violated the law, and in what respect persons reading the article would be led to believe that it was a competent treatment for all chronic conditions of bronchial and nasal passages. On May 4, 1942, the defendants' motion for a bill of particulars came before the court and the court denied the motion announcing as grounds for such denial, first, that the name "Bronchi-Lyptus" was not misleading and; second, that assuming that it might have been misleading, the information contained no direct averment as to how or in what manner the name could be misleading. Thereupon the defendants changed their pleas of not guilty to pleas of nolo contendere, and the court ordered that the imposition of sentences be suspended and that the defendants be placed on probation for 1 year.

728. Misbranding of Gid Granules. U. S. v. Eberly-Williams Manufacturing Co. and Lawrence M. Williams. Pleas of guilty. Fine, \$250 and costs. (F. D. C. No. 5534. Sample Nos. 36782-E, 36783-E.)

The labeling of a portion of Gid Granules No. 1 (in sample envelopes) failed to bear adequate directions for use and was objectionable in other respects as indicated hereinafter. That of the remainder, in addition to bearing false and misleading curative claims, falsely represented that it was not a laxative drug.

On February 27, 1942, the United States attorney for the Northern District of Illinois filed an information against the Eberly-Williams Manufacturing Co., a corporation, Chicago, Ill., and Lawrence M. Williams, alleging shipment within the period from on or about April 9 to on or about April 17, 1941, from the State of Illinois into the State of Massachusetts of quantities of Gid Granules No. 1 and Gid Granules No. 2, and a number of sample envelopes containing Gid Granules No. 1, which were misbranded.

Analyses showed that Gid Granules No. 1 consisted essentially of the mucilaginous portion of psyllium seed, karaya gum, sodium bicarbonate, calcium carbonate, and sugar; and that Gid Granules No. 2 consisted essentially of the mucilaginous portion of psyllium seed, karaya gum, yeast, and sugar.

Both articles were alleged to be misbranded in that the statements on the packages and cartons, (No. 1) "are scientifically prepared to be of effective value in the treatment of minor irritations and inflammations of the stomach and upper intestines" and (No. 2) "are scientifically prepared to be of effective value in the treatment of minor irritations and inflammations of the lower intestine and colon, and in spastic * * * constipation," and those in an accompanying circular, were false and misleading since they represented that the articles would be efficacious in the treatment of minor irritations and inflammations of the lower intestine and colon and in spastic constipation; that they were appropriate and effective treatments for stomach troubles, intestinal disorders, indigestion, diarrhea, sore stomach, bad breath, gnawing pains, gas pains, dyspepsia, biliousness, headaches, sleeplessness, intestinal stasis, auto-intoxication, colitis, colonic irritation, liver and gall deficiencies (not due to infection), intestinal trouble, lesions, stasis, toxemia, putrefaction, flatulence, stomach ulcer, or tuberculosis or cancer of the gastric tract, sore and lacerated ulcers of the upper parts of the gastric tract, the stomach, duodenum, jejunum, small intestine, troubles located in the lower intestines, cecum, ascending and transverse colon, sigmoid, and rectum; whereas they would not be efficacious for such purposes.

They were alleged to be misbranded further in that the statements "Gid, a mucinoid from cereal * * * it is significant that Gid supplies elements that Nature intended to be in man's natural food, but which have been largely lost in the refinement of food processing, Gid is for that reason essentially a food supplement. Certainly it is not a drug or a medicine in the ordinary sense of the word, * * * this * * * food supplement. Gid is not a laxative or cathartic. It has little or no such action. Its help is altogether different. Those who have had to depend on drug or oil laxatives will find Gid a delightful comfort," appearing in the labeling, were false and misleading since the articles were not prepared from a cereal, would not supply elements that nature intended to be in man's natural food but which had been largely lost in the refinement of food processing, they were not food supplements but were drugs in the ordinary sense of the word, and were laxative or cathartic drugs.

The article contained in the sample envelopes was alleged to be misbranded further (1) in that it was in package form and did not bear a label containing

the name and place of business of the manufacturer, packer, or distributor, nor a statement of the quantity of the contents; (2) in that it was fabricated from two or more ingredients and its label did not bear the common or usual name of each active ingredient; and (3) in that its labeling did not bear adequate directions for use, since the envelopes bore no directions at all.

On March 3, 1942, pleas of guilty having been entered on behalf of the defendants, the court imposed a fine of \$250 and costs, which was applicable to both defendants.

729. Misbranding of Merlek Mineral Water. U. S. v. Michael Lee (Lee Bros.).
Plea of nolo contendere. Fine, \$1,000. Defendant placed on probation
for 5 years. (F. D. C. No. 5527. Sample No. 7399-E.)

This product consisted of sea water to which had been added a small amount of potassium iodide. Its labeling bore false and misleading claims regarding its mineral content and its efficacy in conditions of impaired health resulting from mineral deficiency.

On January 3, 1942, the United States attorney for the Northern District of California filed an information against Michael Lee, trading as Lee Bros., Oakland, Calif., alleging shipment on or about May 18, 1940, from the State of California into the State of Arizona of a quantity of Merlek which was misbranded.

The article was alleged to be misbranded in that the statements, "Contains Parts Per Million (Approximate Analysis) Sodium & Potassium Chlorides: 28924.7 Magnesium Chloride: 3286.9 Magnesium Sulphate: 3106.7 Calcium Sulphate: 857.3 Calcium Chloride: 573.0 * * * Magnesium Bromide: 76.0 Alkaline Nitrates: 42.5 Traces of Phosphorus, Boron, Silica, Sodium Fluoride, Iron Oxide, Aluminum Oxide * * * Merlek is sold only to help supply minerals for mineral deficiency," borne on the label, were false and misleading since they represented and suggested that it contained the above-named minerals in amounts sufficient to contribute in an important respect to the requirements of the body for such minerals, and that it would be efficacious in conditions of impaired health resulting from deficiency of said minerals; whereas it would not contribute in an important respect to the requirements of the body for such minerals since it contained inconsequential amounts of minerals and would not be efficacious in conditions of impaired health resulting from deficiency of such minerals. It was alleged to be misbranded further in that its labeling was misleading since it failed to reveal the fact, material in the light of the representations in the labeling, that it consisted of sea water to which had been added a small amount of potassium iodide.

The article was also alleged to be misbranded under the provisions of the law applicable to foods, as reported in F. N. J. No. 3839.

On June 9, 1942, the defendant entered a plea of nolo contendere and the court imposed a fine of \$1,000 and placed the defendant on probation for 5 years.

730. Misbranding of Hoyt's Compound. U. S. v. Herman P. Doyle, Verne N. Seeley, and Fred D. Grantham (Hoyt Chemical Co.). Pleas of guilty.
Fines, \$600. (F. D. C. No. 6462. Sample No. 52314-E.)

On May 11, 1942, the United States attorney for the District of Colorado filed an information against Herman P. Doyle, Verne N. Seeley, and Fred D. Grantham, trading as the Hoyt Chemical Co. at Denver, Colo., alleging shipment on or about May 27, 1941, from the State of Colorado into the State of Washington of a quantity of Hoyt's Compound that was misbranded.

Analysis of a sample of the article showed that it consisted essentially of extracts of plant drugs including a laxative drug, alcohol, and water.

It was alleged to be misbranded in that representations in the labeling that it would be efficacious in the treatment of indigestion, sour stomach, gas, bloating, nervousness, excitability, skin and blood diseases, stomach trouble, constipation, run-down condition, sleeplessness, belching and burning sensation in the throat and stomach, pains in the hips and legs, gas and pressure around the heart, dizziness, lump in the stomach, twitching, jerking, spots before the eyes, and knotty sensation in the stomach; that it would be efficacious to prevent suffering after meals and to quiet the nerves and restore health; that it would be efficacious in the relief of suffering from stomach, bowels, and kidneys; that it would be efficacious to prevent getting up nights caused by kidney affections, to produce gain in weight, to cleanse the bowels and leave the intestinal tract pure and clean and free of poisonous waste matter, and to make the bowels normal; that it would be efficacious in the treatment of all kinds of aches and pains and disorders of the general health; and that it was a wonderful treatment for poor health